



Governor's Office of Drug Control Policy Drug Endangered Children (DEC) Workgroup Report

Submitted to the Iowa Legislature
December 15, 2016



Purpose

The Drug Endangered Children (DEC) stakeholder workgroup was established in SF 2258 by the 86th General Assembly of the State of Iowa. The Governor's Office of Drug Control Policy (ODCP) was tasked with convening the workgroup to meet up to two times during the 2016 legislative interim.

The workgroup charge stems from a legislative proposal that was not adopted during the 2016 session (HF 2206/SF 2165). The DEC workgroup was directed to examine issues and develop policy recommendations related to the protection and safety of drug endangered children for purposes of child in need of assistance and child abuse proceedings. The workgroup was instructed to request relevant data and outcome measures related to drug endangered children, comprehensively review and analyze such information, and propose a statutory definition of a drug endangered child for purposes of child in need of assistance and child abuse proceedings.

Recommendations from this formal process are included in the following report. This report satisfies the requirement to submit findings and recommendations to the General Assembly by December 15, 2016.

The DEC Workgroup met twice during the 2016 legislative interim. The first meeting was held September 22, 2016 and the second was held November 17, 2016. Minutes from both meetings are attached in Appendix One.

Recommendations

The following four recommendations were approved by the workgroup for submission to, and consideration by, the Iowa Legislature. Workgroup members voted on each of the recommendations individually.

- 1) **Adopt the following definition of "Drug Endangered Child"** to offer as a standard for groups across the State of Iowa to use. The workgroup is **not** recommending this definition be part of Iowa Code at this time, but rather a guideline for all discussion of drug endangered children in Iowa. (Motion by Scott Nicholson, 2nd by Brad Shutts, Passed with a majority)

"Drug endangered child" means: A child whose health, safety, or welfare is endangered or threatened as a result of any dangerous substance activity in the presence of the child as defined in Iowa Code sections 232.2(6)(o), 232.2(6)(p), 232.68(2)(a)(6), and 232.68(2)(a)(7).

- 2) **Proposed changes to Iowa Code Section 232.2(6).** (Motion by Liz Cox, 2nd by Kristie Oliver, Passed unanimously)

Iowa Code section 232.2(6): "Child in need of assistance" means an unmarried child:

p. Whose parent, guardian, ~~or~~ custodian, or other adult member of the household in which the

child resides does any of the following: unlawfully uses, possesses, manufactures, cultivates, or distributes ~~manufactures~~ a dangerous substance in the presence of a child, or knowingly allows such unlawful activity ~~manufacture~~ by another person in the presence of a child, or in the presence of a child possesses a product ~~containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers,~~ with the intent to use the product as a precursor or an intermediary to a dangerous substance, or unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous substance as defined in (a), (b), or (c) of subparagraph (2) in a child's home, on the premises, or in a motor vehicle located on the premises.

(1) For the purposes of this paragraph, "in the presence of a child" means in the physical presence of a child ~~during the manufacture or possession, the manufacture or possession occurred in a child's home, on the premises, or in a motor vehicle located on the premises, or the manufacture or possession or occurring occurred~~ under other circumstances in which a reasonably prudent person would know that the use, possession, manufacture, cultivation, or distribution ~~manufacture or possession~~ may be seen, smelled, or heard by a child.

(2) For the purposes of this paragraph, "dangerous substance" means any of the following:

(a) Amphetamine, its salts, isomers, or salts of its isomers.

(b) Methamphetamine, its salts, isomers, or salts of its isomers.

(c) A chemical or combination of chemicals that poses a reasonable risk of causing an explosion, fire, or other danger to the life or health of persons who are in the vicinity while the chemical or combination of chemicals is used or is intended to be used in any of the following:

(i) The process of manufacturing an illegal or controlled substance.

(ii) As a precursor in the manufacturing of an illegal or controlled substance.

(iii) As an intermediary in the manufacturing of an illegal or controlled substance.

(d) Cocaine, its salts, isomers, salts of its isomers, or derivatives.

(e) Heroin, its salts, isomers, salts of its isomers, or derivatives.

(f) Opiate, Opium, their salts, isomers, esters, ethers, or salts of its isomers, esters, or ethers, or derivatives.

3) Proposed changes to Iowa Code section 232.68(2)(a). (Motion by Liz Cox, 2nd by Kristie Oliver, Passed unanimously)

"Child abuse" or "abuse" means:

(7) The person responsible for the care of a child ~~has~~, in the presence of the a child, as defined in section 232.2, subsection 6, paragraph "p", unlawfully uses, possesses, manufactures, cultivates, or distributes ~~manufactured~~ a dangerous substance, as defined in section 232.2, subsection 6, paragraph "p", or knowingly allows such unlawful activity by another person in the presence of a child, or in the presence of the a child possesses a product ~~containing ephedrine, its salts, optical isomers, salts of optical isomers, or pseudoephedrine, its salts, optical isomers, salts of optical isomers,~~ with the intent to use the product as a precursor or an intermediary to a dangerous substance, or unlawfully uses, possesses, manufactures, cultivates, or distributes a dangerous

substance as defined in section 232.2, subsection 6, paragraph p, subparagraph (2)(a), (b), or (c) in a child's home, on the premises, or in a motor vehicle located on the premises.

- 4) **Proposed amendment to Iowa Code section 232.77 (mandatory reporter code section to fully comply with federal CARA and CAPTA regulations).** (Motion by Kristie Oliver, 2nd by Liz Cox, Passed with a majority)

Photographs, X rays, and medically relevant tests, and affected infants.

232.77(2) If a health practitioner discovers in a child physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232.73, on the child. The practitioner shall report any positive results of such a test on the child to the department. The department shall begin an assessment pursuant to section 232.71B upon receipt of such a report. A positive test result obtained prior to the birth of a child shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.

232.77(3) A health care provider involved in the delivery or care of an infant affected by any substance abuse, or withdrawal symptoms resulting from prenatal drug exposure or Fetal Alcohol Spectrum Disorder shall notify the department of the occurrence of such condition of an infant.

The following additional suggestions were submitted by workgroup members after creation of the final recommendations for legislative consideration:

- 1) Because the workgroup was charged with proposing a statutory definition of a drug endangered child, two suggestions were made to combine recommendations #1 and #2 in the following way.

Iowa Code section 232.2(6): "Child in need of assistance" means an unmarried child:

p. Who is considered a "drug endangered child" as defined by the following: Whose parent, guardian.....

- 2) A suggested addition was offered to recommendation #2, to add the word "ingested" to the proposed changes. DHS says it would not be resistant to adding the word "ingested" as that is aligned with the activity of drugs being used in the presence of a child.

(1) For the purposes of this paragraph, "in the presence of a child" means in the physical presence of a child ~~during the manufacture or possession, the manufacture or possession occurred in a child's home, on the premises, or in a motor vehicle located on the premises, or the manufacture or possession or occurring occurred~~ under other circumstances in which a reasonably prudent person would know that the use, possession, manufacture, cultivation, or distribution ~~manufacture or possession~~ may be seen, smelled, ingested, or heard by a child.

Supplemental to these recommendations for legislative consideration, the Iowa Department of Human Services also informed the DEC Workgroup that several relevant administrative changes are already being made by DHS, including the following:

- Creation of a standardized list of criteria for determining when to reassign a case from the Family Assessment pathway to the Child Abuse Assessment pathway. DHS will also include criteria for high-risk marijuana-related cases to be reassigned by type (e.g., concentrates, edibles, or marijuana growing). A standardized tool (called the “safety assessment”) is already integrated into DHS’ policy, procedures and practice. This tool helps a DHS worker determine if a child is safe, conditionally safe, or unsafe. If the child is conditionally safe or unsafe then policy indicates the case must be assigned to the child abuse pathway.
- Issuance of a formal set of policy guidelines relating to DHS workers’ ability to use Confidential Access interviews (such as interviewing a child while at school) during a Family Assessment. The policy regarding confidential access was in place prior to the convening of the DEC workgroup, but based on the feedback from workgroup members it was determined that follow-up communication with field workers was warranted. A reminder about the circumstances under which confidential access should be used was disseminated to all DHS field workers on November 4, 2016.
- Tracking and evaluation of enhanced DHS data measures regarding Differential Response (DR), as discussed during the September 22, 2016 DEC Workgroup meeting, and additional data measures recommended by Blank Children’s Hospital. An updated report incorporating data elements pertinent to DR will be released by DHS in early 2017. As of September 22, 2016, a technology modification went into effect which requires workers to input information about the role of domestic violence, substance abuse and mental health in the finding at the conclusion of the child welfare assessment. Because these data fields have been newly incorporated into the system, the data collected will not be significant enough to draw conclusions around data trends until at least 6 months post-implementation.
- Reporting of these enhanced DHS data measures in an annual Differential Response report.
- Creation of a formalized method by which DHS can engage with stakeholders (judges, prosecutors, law enforcement, medical and mental health providers, etc.) on an annual or biannual basis to review child abuse data, examine trends in child abuse reporting, and make policy and practice recommendations. DHS is proposing the Child Protection Council is one platform that makes sense to conducting a joint presentation. The roll-out of a joint presentation will require the cooperation and data collection of some of the external partners involved in the DEC Workgroup.
- Seeking changes to sections 232.2(p) and 232.68(2)(a)(7) of the Iowa Code to include methamphetamine, cocaine, heroin, and synthetic opioid drug allegations as criteria for children of any age to be assigned to the Child Abuse Assessment pathway. (Included in recommendations #2 and #3 above.)

Summary

The DEC workgroup was formed as a continuing improvement follow-up to the DHS change to a Differential Response (DR) child welfare system in 2014. The purpose of the workgroup was to examine and answer subsequent questions about the impact of DR on the health and safety of drug endangered children, and make policy recommendations to the Iowa Legislature. The workgroup prompted engaging and fruitful discussion. The four recommendations proposed will have an effect on children and families across Iowa.

In summary, the first recommendation is a proposed definition of a “drug-endangered child.” The workgroup is not recommending this be a statutory definition, but rather a way to define this population in discussions about child abuse and child in need of assistance matters.

The second recommendation is the most substantial and involves a change in Iowa Code to add cocaine, heroin, and other synthetic opioids to the list of dangerous substances for which a child in need of assistance case would be assigned to the child abuse pathway, instead of the family assessment pathway. This would include children of any age. This language change also expands on different types of illegal drug manufacturing that would trigger a child abuse assessment.

The third recommendation is also a change to Iowa Code regarding expansion of the definition of child abuse to include these types of drug cases.

The fourth recommendation was brought to the group by DHS. DHS asked for the workgroup’s approval in proposing a change in Iowa Code to become compliant with federal mandatory reporter regulations. The group approved the change to include language that healthcare providers caring for infants affected by prenatal drug or alcohol use would be required to report those cases to DHS.

Workgroup Members

The DEC workgroup was composed of the following fifteen voting members representing their respective disciplines or organizations:

- The Division of Criminal and Juvenile Justice Planning in the Department of Human Rights: Laura Rodeder-Grubb, Manager – Justice Data Warehouse
- The Department of Human Services: Janee Harvey, Bureau Chief – Child Welfare and Community Services
- The Child Advocacy Board: Jim Hennessey, Administrator
- The Department of Justice: Mary Trick, Assistant Attorney General

- The Judicial Branch: Gail Barber, Director – Iowa Children’s Justice
- The Governor’s Office of Drug Control Policy: Steve Lukan, Director and Drug Policy Coordinator
- The Iowa Alliance for Drug Endangered Children: Jennifer Sleiter, Pediatric Nurse Practitioner – Regional Child Protection Center at Blank Children’s Hospital
- The Iowa County Attorneys Association: Scott Nicholson, Assistant Jasper County Attorney
- The Iowa State Sheriffs and Deputies Association: Lt. Brad Shutts, Jasper County Sheriff’s Office
- A Child Welfare Service Provider Group: Kristie Oliver, Executive Director – Iowa Coalition for Family and Children’s Services
- A Health Care Provider Group: Ken McCann, DO FAAP, Medical Director – Regional Child Protection Center at Blank Children’s Hospital
- A Mental Health Care Provider Group: Beth Schmitz, Child Guidance Counselor – Orchard Place
- A Substance Abuse Provider Group: Jason Haglund, Director of Treatment – Youth and Shelter Services
- A Peace Officer Group: Doug Hurley, President – Iowa Narcotics Officers Association
- A Child Abuse Prevention Advocate: Liz Cox, Director – Prevent Child Abuse Iowa

The following members of the General Assembly were appointed to serve in an ex officio, non-voting capacity:

- Representative Dave Dawson
- Senator Chaz Allen
- Representative Greg Heartsill

Appendix One

Written and oral comments and recommendations were submitted to the workgroup for consideration. All important information about the workgroup and submitted information can be found at <https://odcp.iowa.gov/DECworkgroupINFO>. Minutes from the workgroup meetings are included below.

Iowa Drug Endangered Children (DEC) Workgroup

Meeting Minutes

12:30-3:30pm, September 22, 2016

Iowa Capitol, Room 102

Welcome & Introductions:

Dale Woolery welcomed everyone and had everyone introduce themselves.

Workgroup Purpose, Goals & Deliverables:

Susie Sher handed out folders with all materials and referred to each tabbed section. You can find these documents and workgroup updates on the website at <https://odcp.iowa.gov/DECworkgroupINFO>

Iowa Drug Trends (ODCP):

Dale Woolery gave a power point presentation on Drug Abuse in Iowa; Evolving Issues and Trends.

Drug-Related Child Welfare Data (DHS):

Janee Harvey gave a power point presentation on the DHS Differential Response Overview and shared DHS drug related child welfare data and that child safety is always front and center for DHS.

Questions:

Rep. Dave Dawson asked questions regarding how is child abuse defined; he requested additional data regarding the number of referrals for drug testing, how the numbers had dropped in the last 10 years compared to the last 2 years; he requested more information on CINA's (232.2); what factors determined re-assignment and when is an OWI considered for a child abuse assessment.

Janee indicated that DHS would work on collecting the data requested by Representative Dawson. Additionally, she shared that DHS is going to begin assigning cases with heroin, meth, and cocaine allegations at intake onto the CAA pathway. A timeline for instituting this practice has not been established but many of the workgroup members indicated they were in agreement with this practice shift.

Gail Barber asked questions to Mid Iowa Therapy Clinic staff regarding process of reporting back/communicating about the outcomes for families who are referred to Community Care.

Jennifer Sleiter also asked questions regarding how UNCOPE is used in correlation to child safety.

Chaney Yeast made positive comments of DHS and thanked Janee and her team; she would like to continue to be partners in the future. She asked questions about confidential access to children when a case is assigned to the Family Assessment Pathway. She had concerns about which cases are eligible for reassignment from FA to CAA pathway would like to recommend that there be a specific list of factors/criteria for re-assignments.

Dr. McCann asked questions regarding the confidential access to children and collateral contacts during family assessments.

Scott Nicholson asked question regarding if outcomes for Community Care are reported to DHS. He also asked if DHS can consider all prescription drugs allegations being assigned to the child abuse pathway at intake.

Liz Cox asked if cases involving marijuana allegations at intake could be assigned to CAA pathway. Janee indicated the volume of cases with marijuana allegations would essentially undo Differential Response but cases in which the children are unsafe or conditionally unsafe are reassigned to CAA.

Doug Hurley asked questions about looking at the marijuana side of data from the state of Colorado and how long is a person on the child abuse registry.

Public Comment:

Kristie Olivier made positive comments that Iowa is ahead of most states as it pertains to looking at the role of substance abuse with caregivers.

Michelle Tilotta commented that she has been involved with UNCOPE. She explained that UNCOPE is an evidence-based screening tool; which is to be used to indicate someone is in need of a substance abuse evaluation. DHS is piloting the use of the UNCOPE in 4 counties and referrals to substance abuse facilities will be tracked during the pilot.

Cheryl Jones of Iowa Health Specialty Clinic made positive comments about DHS openness. She also shared information about a program for Fathers and how this program is re-engaging fathers with their kids.

Adjourn –

Next Meeting: Thursday, November 17, 12:30-3:30pm, Capitol Room 102

Iowa Drug Endangered Children (DEC) Workgroup

Meeting Minutes

12:30-3:30pm, November 17, 2016

Iowa Capitol, Room 102

Welcome & Introductions:

Dale Woolery welcomed everyone and had everyone introduce themselves.

Purpose, Goals & Deliverables:

Steve Lukan reviewed the agenda. You can find these documents and workgroup updates on the website at <https://odcp.iowa.gov/DECworkgroupINFO>

DHS Follow Up Data:

Janee Harvey reviewed the data of what DHS is proposing. Janee Harvey reviewed the five criteria that DHS uses for reassignment from Family Assessment to Child Abuse Assessment pathway, the ability to use confidential access in a family assessment, rate of reassignment from 2014 to 2015 and commitment to work with external partners to review data.

Discussion & Consideration of Proposed Workgroup Recommendations:

The workgroup discussed the DHS CINA code changes, DHS child abuse code changes and code changes to comply with the Comprehensive Addiction and Recovery Act (CARA)/CAPTA.

The workgroup also reviewed the DEC definition and determined it would not be in Code; but rather be used as a statewide standard definition.

Public Comment:

Cheryl Jones of Iowa Health Specialty Clinic made positive comments about Janee and DHS moving in the right direction.

Chaney Yeast asked questions about policy guidance regarding marijuana concentrates and edibles; the safety risks of huge spikes in accidental ingestion and ER visits.

Janee Harvey shared that DHS has just rolled out Substance abuse training for DHS field staff.

Janee Harvey suggested that she would like to see conversations continue after this workgroup with data being provided by other providers, including CPCs and JCS.

Liz Cox of Prevent Child Abuse Iowa made positive comments and was in full agreement with the DHS recommendations and she fully applauded DHS proposals to modify the DHS mandatory reporter code to become in compliance with the federal mandates of CARA/CAPTA.

Next Steps & Timelines:

The motion was carried to vote by email. The report is due December 15th, 2016.

Other Business:

N/A

Adjourn:

Meeting adjourned.